



DR. Gaurav Kaushik

Role Of Fast-Track Courts In Addressing Crimes Against Women

Associate Professor- Faculty of Law, Agra College, Agra (Dr. B.R. Ambedkar University, Agra) (U.P.) India

Received-30.01.2025,

Revised-07.02.2025,

Accepted-13.02.2025

E-mail: drgauravkaushik76@gmail.com

Abstract: Crimes against women remain a pressing concern, necessitating swift legal interventions to ensure justice and deterrence. Fast-track courts (FTCs) were introduced to expedite the judicial process, reduce case backlogs, and provide timely relief to victims. This paper examines the role of FTCs in addressing crimes against women by evaluating their effectiveness in improving conviction rates, reducing delays, and enhancing victim confidence in the legal system. It also explores challenges such as infrastructural limitations, procedural inefficiencies, and the need for judicial reforms. While FTCs have shown progress in accelerating trials, their success is often hindered by inadequate resources, insufficient judicial appointments, and inconsistent implementation across states. Through an analysis of case studies and statistical data, this study highlights both the achievements and limitations of FTCs in handling crimes against women. The paper concludes with recommendations for strengthening FTCs, including policy reforms, increased funding, and better victim support mechanisms. Strengthening these courts is essential for fostering a more efficient and responsive judicial system that upholds women's rights and ensures justice without undue delay.

Key words: Fast-track courts, crimes against women, judicial efficiency, legal reforms, conviction rate

Introduction- The notion of justice is continually evolving, contentious, and abstract. Society may reach a consensus on the definition of ideal justice; yet, individuals may vary in their requirements and methods. The concept of justice may possess varying interpretations across different societal groups. For a prisoner, it may signify the entitlement to be apprised of the reasons for his imprisonment and the right to seek counsel and be represented by a legal practitioner of his choosing. To the victim, it may signify equitable treatment, reparation, remuneration, and support. The shared premise is that the hearing must be performed to ensure that "justice is served to the parties," allowing each party a fair opportunity to present their case, whether as a victim or as an inmate. In a welfare state, the criminal justice system should be grounded in robust human rights and fundamental freedoms.

A world with widespread (universal) respect for human values, human dignity, the rule of law, equality, justice, and the nondiscrimination principle is what the 2030 Agenda for Sustainable Development aspires to. The Indian Constitution acknowledges the judiciary as a crucial pillar to support the cause of justice and to build efficient, responsible, and transparent institutions at all levels. The fundamental rights protected by the Constitution are under the protection and custody of the court. The distribution of fundamental rights and obligations by the main social institutions is the main topic of justice. Prolonged trials and an increase in sexual crime charges against women and children forced the government to create courts specifically designated as Fast-Track Special Courts.

In order to expedite the trial of cases involving not only horrific crimes but also offenses against the elderly and children, the Ministry of Law's Department of Justice proposed allocating funds for the creation of Fast-Track Courts. Atrocities committed against women pose a serious obstacle to societal advancement on both a national and international scale. Its foundations are found in conventional ideas of the patriarchal system of gender discrimination, male supremacy, and male authority in the social and cultural context. One of the most heinous types of human rights violations that denies women their basic freedoms, liberties, and dignity is crime against women.

As a class, women and children are the most marginalized, defenseless, and repressed group in society. According to data from the National Crime Records Bureau, 4,28,278 cases of crimes against women were reported in 2021. Of these, 31,677 rape instances were reported, with Uttar Pradesh having the most. In 2021, a total of 149,404 instances were recorded concerning crimes against minors. Of the 53,874 instances, nearly 30% were filed under the Protection of Children from Sexual Offences Act of 2012. This data indicates concerning statistics and the oppression of both women and children inside the societal framework.



Defining the scope and evolution of Fast-Track Courts- The concept of Fast-Track Courts was initially proposed by the Eleventh Finance Commission (2002-2005). Upon the Commission's proposal, the Ministry of Home Affairs allocated Rs 502.90 crore for the establishment of extra courts to expedite the resolution of long-pending cases. Consequently, 1734 Fast-Track Courts were established throughout India. Consequently, the 188th Law Commission Report of 2003 led to the establishment of 'Fast-Track, high-tech Commercial Divisions' in all High Courts. In 2008, the Law Commission reiterated its recommendation for the establishment of Fast-Track Courts to address outstanding cheque bounce cases as an ad hoc measure. In the 2000s, the notion of Fast-Track Courts flourished, with Law Commission Reports frequently recommending the establishment of various types of Fast-Track Courts focused on diverse subject topics.

As the decade concluded, a significant transformation in this perception occurred. For example, in 2011, the federal government ceased providing financial support for the operation of Fast-Track Courts. It is important to note that the Fast-Track Courts established thus far were entirely ad hoc and created without any legislative support.

"This contention of the government was challenged in the Supreme Court in early 2012 in the case of *Brij Mohan Lal v. Union of India & Others*. In this decision, the Supreme Court declined to strike down the policy decision of the Union of India not to fund the functioning of the Fast-Track Court beyond March 2011. However, the Supreme Court passed several other guidelines to enhance the justice delivery system".

As an "aftermath of the Nirbhaya case, JS Verma Committee¹ was constituted and it observed that speedy justice was essential to securing the legitimacy and efficacy of the legal framework, as well as to serve as an effective deterrent to crime. In compliance with the recommendations of the JS Verma Committee for securing speedy justice, states across India were directed to establish Fast-Track Courts by appointing additional judges".

"To champion the cause of safety for women as well as children, under the National Mission for Safety of Women (NMSW), Fast-Track Special Courts (FTSCs) are being established. The execution of the scheme is being carried out by Department of Justice, Ministry of Law and Justice for expeditious trial of cases relating to rape and offenses against children under the Protection of Children from Sexual Offences Act (POCSO), 2012". Additionally, the Government instituted severe penalties, including the death penalty, for rape offenders by the enactment of the Criminal Law (Amendment) Act of 2018. The rape and gang rape of females under the age of 12 will result in a minimum sentence of twenty years, extendable to life imprisonment or death. Furthermore, the sexual assault of minors under the age of 16 is subject to a penalty of twenty years' imprisonment or life imprisonment. This modification will possess deterrent and retributive significance in society and will aid in the prevention of such offenses.

The rise in sexual offenses and extended trials for the accused required specialized court systems to offer prompt assistance to victims. Since their establishment, these courts have resolved over 124,000 cases as of October 2022. Conversely, around 193,000 cases remain unresolved in the Fast-Track Special Court, necessitating an extension of the scheme beyond 2023. Mr. Kiren Riju, the Law Minister, has asserted that the safety and security of women, children, and other marginalized groups are of utmost importance, hence

Rationale- A multitude of grounds exists for the establishment of Fast-Track Special Courts. Firstly, there is a substantial number of cases that have been filed but remain unresolved, leading to an elevated pendency rate. As of August 2022, there are 71,411 pending cases in the Supreme Court. Of the aforementioned total, around 10,491 have been pending disposal for over a decade. The Fast-Track Courts exhibit a superior clearing rate relative to traditional courts. Consequently, Fast-Track Courts significantly reduce, if not eradicate, the backlog of cases.

Secondly, these courts facilitate the expeditious administration of justice. The right to a prompt trial is fundamental to the criminal justice system. This idea was reaffirmed in *Hussainara Khatoon v. Home Secretary, State of Bihar*, where the prolonged imprisonment of undertrial detainees was deemed inconsistent with the constitutional tenets of Article 21, which safeguards fundamental liberties. Similarly, in



Maneka Gandhi v. Union of India, the Honourable Supreme Court determined that the right to a fast trial is integral to Article 21, and the state cannot impede equal access to justice.

Thirdly, it will reduce the number of undertrials confined in jails awaiting the commencement of their trials. An under-trial refers to an individual held in judicial custody on remand pending an investigation.² In 2021, the number of under-trials had a significant increase of 14% compared to 2020. The overall count of under-trials in 2021 was 427,165. The Law Commission Report, entitled Report on Fast-Track Magisterial Courts for Dishonoured Cheque, has proposed that Fast-Track Courts will enhance public confidence in the judiciary by addressing the increasing number of under-trial detainees.

Fourthly, it demonstrates the judiciary's dedication to reducing sexual abuse against both women and children. Fast-Track is exclusively focused on managing rape cases and offenses under the Protection of Children from Sexual Offences Act (POCSO), 2012, hence possessing the technical and subject matter knowledge that ordinary courts may lack.

International Scenario- Numerous innovative initiatives have been implemented globally to address the issues concerning women and children. The most major action implemented is the establishment of specialist tribunals to address crimes against women and children. These courts are supported by specialized legislation that establishes the foundation for their operation and functioning. These countries exemplify how they have adapted their criminal justice systems to tackle the pressing challenges of gender-based violence.

A research by the United Nations International Children's Emergency Fund (UNICEF) in Ghana indicates that following the COVID-19 outbreak, there has been an increase in instances of aggressive behavior towards children. Approximately 32% of the youth demographic has experienced heightened aggressive behavior at home following the lockdown. In consideration of Ghana's social and legislative framework, the government established gender-based violence courts and children's circuit courts in 2021. They recognize that the ramifications of sexual offenses against minors extend beyond emotional, physical, and psychological effects. Consequently, child-friendly practices have been implemented to honor the rights of children and ensure their well-being. These encompass technical amenities such as specialized chambers for kid testimonies, a library, and a playroom. court officers and participants in the court system receive prior training to deliver meaningful justice to survivors. The initiatives undertaken by Ghana are commendable, as they have improved the quality of justice and introduced a fresh perspective, instilling hope while prioritizing the interests of the survivors.

To promote gender equality, Spain has developed a legislative framework to address discriminatory practices. Courts for gender-based violence have been instituted in each judicial district. These courts possess jurisdiction to adjudicate matters including homicide, sexual offenses, abortion, violations of personal freedom, and crimes against moral integrity, among others. According to their domestic legislation, the legal system is urged to implement expedited summary trials alongside protective measures for women and children. As of August 2021, these courts have a conviction rate of approximately 77 percent. Additionally, an emergency contact number has been established to address urgent and essential situations.

In 2022, Ladyship Justice Martha Koome established the Sexual and Gender-based Violence court in Mombasa, Kenya. These courts recognize that violations of human rights stem from unequal power dynamics and structural inequities between men and women. Considering the political, social, and economic circumstances of Kenya, these courts will serve as a valuable asset in promoting effective human rights protection and enforcement. In line with this, specialist tribunals, referred to as "Court E," were established in 2008 in Liberia to address the rising incidence of crimes against women, specifically sexual and gender-based offenses. The demand emerged due to the ordinary criminal courts being engaged with cases including theft, robbery, dacoity, and murder. The survivors of rape were hesitant to prosecute their claims due to excessive delays in prosecution. These courts possess jurisdiction to adjudicate cases pertaining to rape, gang rape, corruption of children, and various forms of sexual harassment. Nonetheless, the efficiency and



efficacy of these courts were considerably diminished due to substantial caseloads and insufficient support services for victims and survivors.

A critique- Although the government's initiatives to enhance the criminal justice system are commendable, the effects and significance of Fast-Track Special Courts need to be observed. They are simply swift in a literal context but have yet to demonstrate their true essence. The victims of rape and POCSO possess confidence and optimism in the Fast-Track Special Courts for expedited justice. Nonetheless, these victims remain bereft of their fundamental rights in the administration of prompt justice. As of December 2021, around 10,000 cases remain unresolved in the Fast Track Courts, suggesting that they are afflicted by identical problems as those in traditional courts.

In "the case of Swaran Singh v. State of Punjab, the Honourable Supreme Court has categorically stated that in the absence of any valid and reasonable cause, the practice of delaying as well as adjourning the matters, the court becomes a party to a miscarriage of justice. There are several gaps in the performance of these courts across the country. For instance, Uttar Pradesh is the state which has the highest number of pending cases wherein more than 10,000 cases are awaiting disposal as of September 2022. This is followed by Maharashtra, wherein 43,000 cases are pending. A research study by DAKSH has suggested that the Fast-Track Courts on average take 122 days to dispose of a case, whereas the conventional courts take 133 days. This indicates that there isn't much difference between them and that they have proved incompetent in fulfilling their actual objective. As per section 309 of The Code of Criminal procedure, the inquiry/trial in rape cases shall be concluded within a period of two months from the date of filing of the charge sheet. The primary reason for this they are plagued by similar issues such as procedural delays, heavy caseloads, and lack of adherence to prescribed timelines. These courts also have poor conviction rates. To substantiate this, for sexual crimes the conviction rate is as low as 16.8 percent. Similarly, for sexual offenses against children, the conviction rate stands at 7.8 percent."

A defined jurisdictional framework is absent. The subject matter about the types of instances lacks clarity. Under the Nirbhaya Fund, there is a lack of clarity regarding which sorts of crimes are eligible for adjudication in relation to gender-based violence, such as stalking or domestic abuse. This is compounded by issues afflicting the usual courts, including inadequate infrastructure and a shortage of judges and staff.

Recommendations- To gain "maximum from the functioning of the Fast-Track Courts some affirmative actions may be taken for their betterment. Firstly, there is a dire need for exclusive legislation that can form the backbone of the Fast-Track Special Courts. To date, their work is governed merely under the disguise of governmental schemes. They are often established as a result of political pressure and public sentiments. Secondly, to lay down the structure of the Fast-Track Special Courts, there is a requirement of redefining and reforming the procedural norms. In the case of *Zahira Habibullah Sheikh v. State of Gujarat*¹, the Supreme Court had acknowledged there were grave issues in the manner the Fast-Track Courts had recorded the evidence as no rules for cross-examination for witnesses were followed. Therefore, there is a need to comprehensively lay down the laws for procedure that ought to adhere to both pre-trial and post-trial should be laid. These laws must specifically include aspects relating to framing of charges, evidence by the prosecution, statement of the accused, defence evidence, final arguments, appeals etc".

Thirdly, comprehensive training and awareness programs should be implemented for all staff involved, directly or indirectly, in the administration of justice. These encompass judicial staff, attorneys, prosecutors, court clerks, healthcare professionals, law enforcement officers, among others. Fourthly, robust infrastructural facilities must be established. A designated room for children's testimonies, libraries, playrooms, adequate computer systems, sound and video recording facilities, and access to pertinent legal materials are essential to improve the quality of justice. Finally, specific support services must be offered to the victim/survivor and their relatives. They may encompass psychologists, social workers, and others to mitigate the trauma they may have experienced.

Conclusion- Experience indicates that the implementation of Fast-Track Courts significantly deviates from the initial conception. Simply altering the terminology of courts is inadequate. It is necessary



to enhance the efficacy of the Fast-Track Courts. In the lack of specific law for Fast-Track Courts, they are subject to political pressure and vulnerable to popular sentiment. A more sophisticated law supported by legislation, coupled with committed infrastructure and manpower, is needed at this time. This may be accomplished solely through a thorough and prompt collaborative process among the diverse stakeholders to address the existing deficiencies. In the effort to reinforce the current framework, countries such as Ghana, Spain, and Kenya exemplify effective implementations of Fast-Track Courts. The 2030 Agenda for Sustainable Development aims to enhance the accessibility and inclusivity of judicial institutions. Fast-Track Courts possess the capacity to serve as a catalyst for delivering substantive justice, alongside its essential element of expeditious justice. This would foster optimism in society by protecting the rights of victims or survivors.

REFERENCE

1. Jorge García"Hombrados and Marta Martínez"Matute. (2021). Specialized Courts and the Reporting of Intimate Partner Violence: Evidence from Spain. Discussion Paper Series IZA Institute of Labor Economics. IZA DP No. 14936.
2. Lok Sabha Secretariat. (2015). Fast-Track Courts. Parliament Library and Reference, Research, Documentation and Information Service (Larrdis).
3. Jayna Kothari and Aparna Ravi. (2013). The Myth of Speedy and Substantive Justice: A Study of Special Fast-Track Courts for Sexual Assault and Child Sexual Abuse. Centre for Law and Policy Research.
4. The Report of Eleventh Finance Commission (2000"2005).
5. Ajay Pal Singh. (2021). Fast-Track Courts in India: Past, Present and Future. International Journal of Law Management and Humanities.
6. UNICEF Ghana and Judicial Service of Ghana. (2019). Operational Guidelines for Child Friendly Gender Based Violence Courts.
7. United Nations Office on Drugs and Crime. (2021). Report on Criminal Justice System Responses to Gender-based Violence in the SADC region.
8. Diya Parvati K.P. (2021). Analysing the Role of Fast-Track Courts and E" Complaint System in Detering the Crime against Women in India, International Journal of Law Management & Humanities.
9. Simran Singh. (2021). Fast-Track Courts" Need of the Hour to Combat Sexual Offences, Journal of Emerging Technologies and Innovative Research. Volume 8, Issue 6.
10. Vandana Peterson. (2016). Speeding Up Sexual Assault Trials: A Constructive Critique of India's Fast-Track Courts, Yale Human Rights & Development.
